

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESTATE OF NICKOLAS MICHAEL
PETERS, by the Personal Representative CARL
MICHAEL PETERS; and JAYNI MARIE
PETERS and CARL MICHAEL PETERS,
individually and their marital community,

Plaintiffs.

vs.

SNOHOMISH COUNTY as a sub-division of the STATE of WASHINGTON; SNOHOMISH COUNTY DEPUTY SHERIFF ARTHUR J. WALLIN; and CERTAIN UNKNOWN SNOHOMISH COUNTY DEPUTY SHERIFFS JOHN & JANE DOES 1-3.

Defendants.

COMES NOW Defendant Snohomish County by and through its attorney of record, and by way of answer to The Third Amended Complaint admits, denies and alleges as follows:

I. JURISDICTION AND VENUE

1. Answering paragraph 1 of the Third Amended Complaint, to the extent this paragraph consists of allegations pertaining to a defendant other than Snohomish County, no response is required. Defendant Snohomish County admits jurisdiction is properly vested in Federal District

1 Court based on allegations giving rise to actions under 42 U.S.C. § 1983, 28 U.S.C. §1331 and
2 28 U.S.C. §1343.

3 2. Answering paragraph 2 of the Third Amended Complaint, paragraph 2 is a legal
4 conclusion for which no response is required.

5 3. Answering paragraph 3 of the Third Amended Complaint, Defendant Snohomish
6 County admits this Court has original jurisdiction over the claims.

7 4. Answering paragraph 4, of the Third Amended Complaint, Defendant Snohomish
8 County affirmatively alleges and admits Snohomish County is a political subdivision of the State
9 of Washington, is located within the Western District of Washington, the incident giving rise to
10 the complaint occurred in the Western District of Washington and venue is appropriate in the U.S.
11 District Court, Western District of Washington. Defendant Snohomish County is without
12 information sufficient to form the basis of a belief in the truth in the allegations of residency of
13 the other parties and therefore the remaining allegations are denied.

16 **II. PARTIES**

17 **Plaintiffs**

18 5. Answering paragraph 5 of the Third Amended Complaint, Defendant is without
19 information sufficient to form the basis of a belief in the allegations and therefore denies the
20 allegations.

22 6. Answering paragraph 6 of the Third Amended Complaint, Defendant is without
23 information sufficient to form the basis of a belief in the allegations and therefore denies the
24 allegations.

25 7. Answering paragraph 7 of the Third Amended Complaint, Defendant is without

1 information sufficient to form the basis of a belief in the allegations and therefore denies the
2 allegations.

3 8. Answering paragraph 8 of the Third Amended Complaint, Defendant is without
4 information sufficient to form the basis of a belief in the allegations and therefore denies the
5 allegations.

6 **Defendants**

7 9. Answering paragraph 9 of the Third Amended Complaint, Defendant Snohomish
8 County admits Snohomish County is a political subdivision of the State of Washington. As the
9 remaining allegations are legal averments, no response is required.

10 11. Answering paragraph 10 of the Third Amended Complaint, to the extent
11 paragraph 10 consists of allegations regarding a defendant other than Snohomish County, no
12 response is required. If an answer is required of Snohomish County regarding allegations against
13 another Defendant, Defendant Snohomish County admits, on information and belief that
14 Snohomish County Deputy Arthur Wallin is believed to be the deputy sheriff that fired a firearm
15 during the incident giving rise to Plaintiffs' complaint. Defendant Snohomish County is without
16 information sufficient to form the basis of a belief in the truth of the remaining allegations and
17 therefore denies the same.

18 11. Answering paragraph 11 of the Third Amended Complaint, Defendant Snohomish
19 County admits Deputy Wallin was employed by Defendant Snohomish County as a Deputy
20 Sheriff on the date of the incident giving rise to the complaint. Any different or remaining
21 allegations are denied.

1 12. Answering paragraph 12 of the Third Amended Complaint, to the extent paragraph
2 12 consists of allegations regarding a defendant other than Snohomish County, no response is
3 required. If an answer of Snohomish County is required regarding allegations against a defendant
4 other than Snohomish County, Defendant Snohomish County on information and belief admits
5 Deputy Wallin was acting under color of state law and within the scope of his employment.

6 13. Answering paragraph 13 of the Third Amended Complaint, to the extent paragraph
7 13 consists of allegations regarding a defendant other than Snohomish County, no response is
8 required. If an answer of Snohomish County is required regarding allegations against another
9 Defendant, Defendant Snohomish County denies the allegations.

10 14. Answering paragraph 14 of the Third Amended Complaint, to the extent paragraph
11 14 consists of allegations regarding a defendant other than Snohomish County, no response is
12 required. If an answer of Snohomish County is required regarding allegations against another
13 Defendant, Defendant Snohomish County denies the allegations.

14 15. Answering paragraph 15 of the Third Amended Complaint, Defendant Snohomish
15 County is without information sufficient to form the basis of a belief in the allegations and
16 therefore denies the same.

17 16. Answering paragraph 16 of the Third Amended Complaint, Defendant Snohomish
18 County is without information sufficient to form the basis of a belief in the allegations and
19 therefore denies the same.

20 17. Answering paragraph 17 of the Third Amended Complaint, Defendant Snohomish
21 County is without information sufficient to form the basis of a belief in the allegations and
22 therefore denies the same.

18. Answering paragraph 18 of the Third Amended Complaint, paragraph 18 is an averment requiring not an answer. To the extent a response is required, Defendant Snohomish County denies.

III. JURY DEMAND

19. Answering paragraph 18 of the Third Amended Complaint, no response is required.

IV. BACKGROUND FACTS

20. Answering paragraph 20 of the Third Amended Complaint, to the extent paragraph 20 consists of allegations regarding a defendant other than Snohomish County, no response is required. If an answer of Snohomish County is required regarding allegations against another Defendant, Defendant Snohomish County denies the allegations.

21. Answering paragraph 21 of the Third Amended Complaint, to the extent paragraph 21 consists of allegations regarding a defendant other than Snohomish County, no response is required. If an answer of Snohomish County is required regarding allegations against another Defendant, Defendant Snohomish County is without information sufficient to form the basis of a belief in the truth of the allegations and therefore denies the same.

22. Answering paragraph 22 of the Third Amended Complaint, Defendant Snohomish County admits, as of the date of this filing, Deputy Wallin is on administrative leave from the Snohomish County Sheriff's Office. Any different or remaining allegations are denied.

23. Answering paragraph 23 of the Third Amended Complaint, Defendant Snohomish County admits, upon information and belief, that on October 23, 2018, Nickolas Peters, age 24, was driving a pickup truck in Snohomish County, Washington. Defendant Snohomish County is

1 without information sufficient to form a basis of a belief as to the remaining allegation that Mr.
2 Peters was driving within Bothell City limits and therefore, denies the allegation.

3 24. Answering paragraph 24 of the Third Amended Complaint, Defendant Snohomish
4 County affirmatively alleges and admits on information and belief, at the conclusion of the vehicle
5 pursuit, Britt Jackobsen, age 22, was the sole passenger in the pickup truck. Any additional
6 allegations are denied.
7

8 25. Answering paragraph 25 of the Third Amended Complaint, Defendant Snohomish
9 County denies Plaintiffs fairly and accurately characterize the content of the radio traffic of the
10 incident. Defendant Snohomish County affirmatively alleges and admits that at the conclusion
11 of the incident, it was determined that the subject driving a pickup truck on October 23, 2018 was
12 Nickolas Peters. Any different or remaining allegations are denied.
13

14 26. Answering paragraph 26 of the Third Amended Complaint, to the extent paragraph
15 26 consists of allegations regarding a defendant other than Snohomish County, no response is
16 required. If an answer of Snohomish County is required regarding allegations against another
17 Defendant, Defendant Snohomish County denies Plaintiffs fairly and accurately characterize the
18 contents of radio traffic of the incident and therefore denies the allegations.
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20 27. Answering paragraph 27 of the Third Amended Complaint, to the extent paragraph
21 27 consists of allegations regarding a defendant other than Snohomish County, no response is
22 required. If an answer of Snohomish County is required regarding allegations against another
23 Defendant, on information and belief, Defendant Snohomish County admits on information and
24 belief, Deputy Wallin was driving a marked police vehicle. As to the remaining allegations
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1 against Defendant Wallin, Defendant Snohomish County is without information sufficient to form
2 the basis of a belief as to the truth of the allegations and denies the same.

3 28. Answering paragraph 28 of the Third Amended Complaint, Defendant Snohomish
4 County admits the allegations in paragraph 28.

5 29. Answering paragraph 29 of the Third Amended Complaint, Defendant Snohomish
6 County admits the allegations.

7 30. Answering paragraph 30 of the Third Amended Complaint, Defendant Snohomish
8 County affirmatively alleges and admits after being pulled over for a traffic violation, Nickolas
9 Peters initially stopped the vehicle he was driving, but subsequently fled before any Snohomish
10 County Sheriff's personnel made contact.

11 31. Answering paragraph 31 of the Third Amended Complaint, Defendant Snohomish
12 County affirmatively alleges and admits the vehicle pursuit ran several miles and multiple
13 maneuvers were attempted, to stop the vehicle, termed "PIT," a PIT maneuver occurs when a
14 pursuing car can force a fleeing car to turn sideways abruptly, causing the driver to lose control
15 and stop. Defendant Snohomish County affirmatively alleges and admits, that the pursuit ended
16 on Damson Road, southwest of the location where Damson Road meets Filbert Road in
17 Snohomish County, WA. Defendant Snohomish County denies the remaining allegations.

18 32. Answering paragraph 32 of the Third Amended Complaint, Defendant Snohomish
19 County is without information sufficient to form the basis of a belief in the truth allegations and
20 therefore denies the same.

21 33. Answering paragraph 33 of the Third Amended Complaint, Defendant Snohomish
22 County admits the pickup truck ended partially on the sidewalk at the end of the pursuit, but is
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1 without information sufficient to form the basis of a belief in the truth in the remaining allegations
2 and therefore denies.

3 34. Answering paragraph 34 of the Third Amended Complaint, to the extent paragraph
4 34 consists of allegations regarding a defendant other than Snohomish County, no response is
5 required. If an answer of Snohomish County is required regarding allegations against another
6 Defendant, Defendant Snohomish County denies the allegations

7 35. Answering paragraph 35 of the Third Amended Complaint, on information and
8 belief, Defendant Snohomish County admits and affirmatively alleges that Deputy Stich drove
9 his vehicle into the front end of the pickup truck, pushing the truck backwards. Answering the
10 remainder of the allegations contained in paragraph 35, Defendant Snohomish County is without
11 information sufficient to form the basis of a belief in the truth of the allegations, as to the distance
12 the pickup truck was moved by Deputy Stich's impact with it, and therefore denies the same.

13 36. Answering paragraph 36 of the Third Amended Complaint, Defendant Snohomish
14 County affirmatively alleges and admits Deputy Stich's actions pushed the pickup rearward, but
15 is without information sufficient to form a basis of a belief as to the truth of the remaining
16 allegations and therefore denies.

17 37. Answering paragraph 37 of the Third Amended Complaint, Defendant Snohomish
18 County is without information sufficient to form a basis of a belief as to the truth of the allegations
19 and therefore denies.

20 38. Answering paragraph 38 of the Third Amended Complaint, Defendant Snohomish
21 County is without information sufficient to form a basis of a belief as to the truth of the allegations
22 and therefore denies the allegations.

1 39. Answering paragraph 39 of the Third Amended Complaint, Defendant Snohomish
2 County is without information sufficient to form a basis of a belief as to the truth of the allegations
3 and therefore denies the allegations.

4 40. Answering paragraph 40 of the Third Amended Complaint, Defendant Snohomish
5 County is without information sufficient to form a basis of a belief as to the truth of the allegations
6 and therefore denies the allegations.

7 41. Answering paragraph 41 of the Third Amended Complaint, Defendant Snohomish
8 County affirmatively alleges and admits Deputy Stich reported that deputies Wallin and Stich
9 exited their vehicles and stood near the front passenger side of the pickup truck.

10 42. Answering paragraph 42 of the Third Amended Complaint, the allegations in
11 paragraph 42 consist of allegations regarding a defendant other than Snohomish County, and thus
12 no response is required. If an answer of Snohomish County is required regarding allegations
13 against another Defendant, Defendant Snohomish County is without information sufficient to
14 form the basis of a belief as to the truth of the allegations and therefore denies the allegations.

15 43. Answering paragraph 43 of the Third Amended Complaint, Defendant Snohomish
16 County is without information sufficient to form a basis of a belief as to the truth of the allegations
17 and therefore denies the allegations.

18 44. Answering paragraph 44 of the Third Amended Complaint, Defendant Snohomish
19 County on information and belief admits commands were given to Mr. Peters and Ms. Jakobsen,
20 but is without information sufficient to form the basis of a belief into the sequence of the
21 commands given and therefore denies the allegations contained in paragraph 44.

1 45. Answering paragraph 45 of the Third Amended Complaint, Defendant Snohomish
2 County affirmatively alleges and admits Deputy Stich observed and reported that Nickolas Peters'
3 left was hand moving between the driver's side door and the steering wheel and Deputy Stich
4 later reported that it appeared Mr. Peters was trying to open the driver's side door.

5 46. Answering paragraph 46 of the Third Amended Complaint, Defendant Snohomish
6 County admits the allegations.

7 47. Answering paragraph 47 of the Third Amended Complaint, the paragraph consists
8 of allegations regarding a defendant other than Snohomish County, and thus no response is
9 required. If an answer of Snohomish County is required regarding allegations against another
10 Defendant, Defendant Snohomish County is without information sufficient to form the basis of a
11 belief in the allegations and therefore denies the allegations.

12 48. Answering paragraph 48 of the Third Amended Complaint, Defendant
13 Snohomish County admits the allegations.

14 49. Answering paragraph 49 of the Third Amended Complaint, Defendant Snohomish
15 County affirmatively alleges and admits Deputy Stich reported that after he heard shots fired, he
16 looked into the pickup truck and was finally able to observe Mr. Peters right hand, which was
17 balled into a fist down by his waist, while his left hand was moving around, appearing to try to
18 open the door.

19 50. Answering paragraph 50 of the Third Amended Complaint, Defendant Snohomish
20 County admits the allegations.

21 51. Answering paragraph 51 of the Third Amended Complaint, Defendant Snohomish
22 County affirmatively alleges and admits on information and belief, Deputy Stich was verbally
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1 interviewed by Snohomish County Multi-Agency Response Team, or “SMART,” investigators
2 on October 24, 2018 and the interview was recorded, and on October 28, 2018, Deputy Stich
3 provided a written follow-up report based on questions raised by the SMART investigators during
4 the October 24, 2018 interview. Any remaining allegations are denied.

5 52. Answering paragraph 52 of the Third Amended Complaint, Defendant Snohomish
6 County denies Plaintiffs have fairly and accurately characterized the contents of Deputy Stich’s
7 interview and follow-up report. Defendant Snohomish County affirmatively alleges and admits,
8 Deputy Stich was verbally interviewed by Snohomish County Multi-Agency Response Team, or
9 “SMART,” investigators on October 24, 2018 and the interview was recorded, and on October
10 28, 2018, Deputy Stich provided a written follow-up report based on questions raised by the
11 SMART investigators during the October 24, 2018 interview. Defendant Snohomish County
12 affirmatively alleges and admits the October 24, 2018 recorded interview and October 28, 2018
13 follow-up report accurately reflect Deputy Stich’s observations of the incident giving rise to
14 Plaintiffs’ complaint. All differing allegations are denied.

17 53. Answering paragraph 53 of the Third Amended Complaint, paragraph 53 consists
18 of allegations regarding a defendant other than Snohomish County, no response is required. If an
19 answer of Snohomish County is required regarding allegations against another Defendant,
20 Defendant Snohomish County is without information sufficient to form the basis of a belief in the
21 allegations and therefore denies the allegations.

23 54. Answering paragraph 54 of the Third Amended Complaint, Defendant Snohomish
24 County affirmatively alleges and admits a bullet entered Nickolas Peters’ upper right arm near
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1 his shoulder. Defendant Snohomish County is without information sufficient to form the basis of
2 a belief in the truth of the remaining allegations and therefore denies the same.

3 55. Answering paragraph 55 of the Third Amended Complaint, Defendant Snohomish
4 County admits that at the time of the incident, light was provided to the area in which the incident
5 occurred by overhead streetlights and headlights of two patrol vehicles. However, Defendant
6 Snohomish County is without information sufficient to form the basis of a belief in the truth of
7 the allegation regarding the degree to which the pickup was illuminated, and therefore denies that
8 at all times material to this incident, the pickup was illuminated. Any different or remaining
9 allegations are denied.

10 56. Answering paragraph 56 of the Third Amended Complaint, Defendant Snohomish
11 County affirmatively alleges and admits there was no reported observation of Mr. Peters holding
12 a weapon, or reported observation of a weapon visible in the vehicle at the time of the shooting.

13 57. Answering paragraph 57 of the Third Amended Complaint, Defendant Snohomish
14 County admits the allegation.

15 58. Answering paragraph 58 of the Third Amended Complaint, to the extent this
16 paragraph consists of a defendant other than Snohomish County, no response is required. If an
17 answer of Defendant Snohomish County is required as to allegations regarding another defendant,
18 Defendant Snohomish County is without information sufficient to form a basis of a belief in the
19 allegation and therefore denies the same. To the extent this paragraph pertains to Defendant
20 Snohomish County, Defendant Snohomish County affirmatively alleges and admits Deputy Stich
21 did not report Mr. Peters was verbally threatening him at the time he was shot, however Mr. Peters
22 was not following the deputies commands. Any different or remaining allegations are denied.

1 59. Answering paragraph 59 of the Third Amended Complaint, Defendant Snohomish
2 County is without information sufficient to form the basis of a belief in the truth of the allegations
3 and therefore denies the allegations.

4 60. Answering paragraph 60 of the Third Amended Complaint, to the extent the
5 paragraph consists of allegations regarding a defendant other than Snohomish County, no
6 response is required. Additionally, to the extent this paragraph consists of legal averments, no
7 response is required. To the extent this paragraph pertains to Defendant Snohomish County,
8 Defendant Snohomish County admits and affirmatively alleges that patrol deputies are equipped
9 with a service weapon in addition to measures of less-lethal force. If an answer of Snohomish
10 County is required regarding allegations against another Defendant, Defendant Snohomish
11 County is without information sufficient to form the basis of a belief in the allegations and
12 therefore denies the allegations. Any different or remaining allegations are denied.

15 61. Answering paragraph 61 of the Third Amended Complaint, to the extent the
16 paragraph consists of allegations regarding a defendant other than Snohomish County, no
17 response is required. If an answer of Snohomish County is required regarding allegations against
18 another Defendant, Defendant Snohomish County is without information sufficient to form the
19 basis of a belief in the allegations and therefore denies the allegations. Additionally, to the extent
20 this paragraph consists of legal averments, no response is required. To the extent this paragraph
21 pertains to Defendant Snohomish County, Defendant Snohomish County admits and affirmatively
22 alleges that patrol deputies are equipped with pepper spray, Tasers, batons, and flashlights.
23 Defendant Snohomish County admits and affirmatively alleges that a number of means to subdue
24 a resisting subject are available to law enforcement officers. However, Defendant Snohomish
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1 County lacks sufficient information to form a belief as to the allegation whether measures were
2 indicated by the situation presented to Deputy Stich and therefore deny the same. Any different
3 or remaining allegations are denied.

4 62. Answering paragraph 62 of the Third Amended Complaint, Defendant Snohomish
5 County admits Sergeant Johnson, Sergeant Fortney, Deputy Miner and Deputy Woodson were
6 arriving at the scene as the incident was occurring, but is without information sufficient to form
7 the basis of a belief in truth of the allegation they would have been available to assist in non-
8 specified alternatives to lethal force and therefore denies the allegations.

9 63. Answering paragraph 63 of the Third Amended Complaint, the paragraph consists
10 of allegations regarding a defendant other than Snohomish County, no response is required. In
11 addition, the paragraph contains legal averments not requiring an answer. If an answer of
12 Snohomish County is required regarding allegations against another Defendant, Defendant
13 Snohomish County is without information sufficient to form the basis of a belief in the allegations
14 and therefore denies the allegations.

15 64. Answering paragraph 64 of the Third Amended Complaint, Defendant Snohomish
16 County affirmatively alleges and admits the Sheriff of Snohomish County is an independently
17 elected officer of Snohomish County.

18 65. Answering paragraph 65 of the Third Amended Complaint, the paragraph
19 Defendant Snohomish County denies the allegations.

20 66. Answering paragraph 66 of the Third Amended Complaint, Snohomish County
21 denies the allegations.

1 67. Answering paragraph 67 of the Third Amended Complaint, the paragraph consists
2 of allegations regarding a defendant other than Snohomish County, no response is required. If
3 an answer of Snohomish County is required regarding allegations against another Defendant,
4 Defendant Snohomish County is without information sufficient to form the basis of a belief in the
5 allegations and therefore denies the allegations.

6 68. Answering paragraph 68 of the Third Amended Complaint, the paragraph contains
7 a legal averment not requiring an answer. To the extent an answer is required, Defendant
8 Snohomish County denies.

9 69. Answering paragraph 69 of the Third Amended Complaint, the paragraph contains
10 a legal averment not requiring an answer. To the extent an answer is required, Defendant
11 Snohomish County denies.

12 70. Answering paragraph 70 of the Third Amended Complaint, the paragraph consists
13 of allegations regarding a defendant other than Snohomish County, no response is required. In
14 addition, the paragraph contains legal averments not requiring an answer. To the extent an answer
15 is required, Defendant Snohomish County denies.

16 71. Answering paragraph 71 of the Third Amended Complaint, the paragraph consists
17 of allegations regarding a defendant other than Snohomish County, no response is required. In
18 addition, the paragraph contains legal averments not requiring an answer. To the extent an answer
19 is required, Defendant Snohomish County denies. By way of further answer, the County states
20 that the United States Supreme Court has not recognized such a claim.

1 72. Answering paragraph 72 of the Third Amended Complaint, the paragraph consists
2 of legal averments, no response is required. To the extent an answer is required, Defendant
3 Snohomish County denies.

4 73. Answering paragraph 73 of the Third Amended Complaint, Defendant Snohomish
5 County admits Mr. Peters was transported to Harborview Medical Center in Seattle and died. The
6 remaining allegations are regarding a defendant other than Snohomish County, If an answer from
7 Snohomish County is required as to another defendant, Defendant Snohomish County is without
8 information sufficient to form a basis of a belief in the truth of the allegations and denies the
9 same.

10 74. Answering paragraph 74 of the Third Amended Complaint, Defendant Snohomish
11 County is without information sufficient to form the basis of a belief in truth of the allegations
12 and therefore denies.

13 75. Answering paragraph 75 of the Third Amended Complaint, Defendant Snohomish
14 County affirmatively alleges and admits on information and belief, on November 27, 2018, the
15 Snohomish County Sheriff initially issued an order to Deputy Wallin to provide an involuntary
16 statement to SMART investigators regarding the incident under *Garrity v. NJ*, 385 U.S. 493, 87
17 S.Ct. 616 (1967) and its progeny. Defendant Snohomish County further affirmatively alleges and
18 admits, the *Garrity* order pertaining to the SMART investigation was rescinded on December 6,
19 2018.

20 76. Answering paragraph 76 of the Third Amended Complaint, the paragraph consists
21 of allegations regarding a defendant other than Snohomish County, no response is required. If an
22 answer of Snohomish County is required regarding allegations against another Defendant,
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1 Defendant Snohomish County is without information sufficient to form the basis of a belief in the
2 allegations and therefore denies the allegations.

3 77. Answering paragraph 77 of the Third Amended Complaint, the paragraph consists
4 of allegations regarding a defendant other than Snohomish County, no response is required. If an
5 answer of Snohomish County is required regarding allegations against another Defendant,
6 Defendant Snohomish County is without information sufficient to form the basis of a belief as to
7 the truth of the allegations and therefore denies the allegations.

8 78. Answering paragraph 78 of the Third Amended Complaint, Defendant Snohomish
9 County denies Plaintiffs have fairly and accurately characterized the content of the November 27,
10 2018 order given to Deputy Wallin. All remaining allegations are denied.

11 79. Answering paragraph 79 of the Third Amended Complaint, Defendant Snohomish
12 County denies Plaintiffs have fairly and accurately characterized the content of the November 27,
13 2018 order given to Deputy Wallin. All remaining allegations are denied.

14 80. Answering paragraph 80 of the Third Amended Complaint, Defendant Snohomish
15 County denies Plaintiffs have fairly and accurately characterized the contents of any orders under
16 *Garrity* order given to Deputy Wallin. Defendant Snohomish County affirmatively alleges and
17 admits Defendant Snohomish County advised Deputy Wallin of *Garrity* rights as they pertain to
18 Snohomish County as his employer in May 2019. All remaining allegations are denied.

19 81. Answering paragraph 81 of the Third Amended Complaint, Defendant Snohomish
20 County understands Plaintiffs to be referring to RCW 36.28.010 which describes the Sheriff as
21 the chief executive officer and conservatory of the peace of the county, Defendant Snohomish
22 County admits the Sheriff's duties are delineated in RCW 28.010.

1 82. Answering paragraph 82 of the Third Amended Complaint, Defendant Snohomish
2 County affirmatively alleges and admits the Sheriff and his delegates are responsible for
3 administration and management of the Snohomish County Sheriff's Office.

4 83. Answering paragraph 83 of the Third Amended Complaint, the paragraph contains
5 legal averments, no response is required.

6 84. Answering paragraph 84 of the Third Amended Complaint, the paragraph contains
7 legal averments, no response is required.

8 85. Answering paragraph 85 of the Third Amended Complaint, Defendant Snohomish
9 County affirmatively alleges and admits the Snohomish County Sheriff enacts policy and
10 procedures for the Snohomish County Sheriff's Office and the policy manual is titled, SCSO Law
11 Enforcement Policy Manual. All remaining allegations are denied.

12 86. Answering paragraph 86 of the Third Amended Complaint, Defendant Snohomish
13 County denies Plaintiffs have fairly and accurately characterized the contents of Article 18,
14 paragraph 18.1.9 of the Collective Bargaining Agreement. Defendant Snohomish County
15 affirmatively alleges and admits a Collective Bargaining Agreement is in effect between
16 Snohomish County and the Snohomish County Deputy Sheriff's Association. Defendant
17 Snohomish County further affirmatively alleges and admits Article 18, paragraph 18.1.9 of the
18 Collective Bargaining Agreement addresses employee rights in internal investigations and
19 informs deputies of potential disciplinary consequences of providing or not providing a statement.
20 All remaining or differing allegations are denied.

21 87. Answering paragraph 87 of the Third Amended Complaint, Defendant Snohomish
22 County denies Plaintiffs have fairly and accurately characterized the contents of section 1019.7.3

1 of the SCSO Law Enforcement Policy Manual. Defendant Snohomish County affirmatively
2 alleges and admits section 1019.7.3 of the SCSO Law Enforcement Policy addresses the rights
3 and responsibilities of employees in Snohomish County Sheriff's Office internal investigations
4 including the requirement that employees cooperate in any internal investigations, and section
5 1019.7.3 advises employees of disciplinary consequences of failing to cooperate with internal
6 investigations. Any differing or remaining allegations in paragraph 87 are denied.
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8 88. Answering paragraph 88 of the Third Amended Complaint, Defendant Snohomish
9 County denies the allegations.

10 89. Answering paragraph 89 of the Third Amended Complaint, Defendant Snohomish
11 County denies the allegations.

12 90. Answering paragraph 90 of the Third Amended Complaint, Defendant Snohomish
13 County denies the allegations.

14 91. Answering paragraph 91 of the Third Amended Complaint, Defendant Snohomish
15 County denies the allegations.

16 92. Answering paragraph 92 of the Third Amended Complaint, Defendant Snohomish
17 County denies the allegations

18 93. Answering paragraph 93 of the Third Amended Complaint, Defendant Snohomish
19 County denies the allegations.

20 94. Answering paragraph 94 of the Third Amended Complaint, Defendant Snohomish
21 County denies the allegations

22 95. Answering paragraph 95 of the Third Amended Complaint, Defendant Snohomish
23 County denies the allegations.

1 96. Answering paragraph 96 of the Third Amended Complaint, the paragraph consists
2 of allegations regarding a defendant other than Snohomish County. If an answer of Snohomish
3 County is required regarding allegations against another Defendant, Defendant Snohomish
4 County denies the allegations.

5 97. Answering paragraph 97 of the Third Amended Complaint, to the extent this
6 paragraph consists of allegations regarding a defendant other than Snohomish County, no
7 response is required. If an answer of Defendant Snohomish County is required regarding
8 allegations against another defendant, Defendant Snohomish County denies the allegations. To
9 the extent this paragraph pertains to Defendant Snohomish County, Defendant Snohomish County
10 denies the allegations.

11 98. Answering paragraph 98 of the Third Amended Complaint, Defendant Snohomish
12 County denies the allegations.

13 99. Answering paragraph 99 of the Third Amended Complaint, Defendant Snohomish
14 County denies the allegations.

15 100. Answering paragraph 100 of the Third Amended Complaint, Defendant
16 Snohomish County denies the allegations.

17 101. Answering paragraph 101 of the Third Amended Complaint, Defendant
18 Snohomish County denies Plaintiffs have fairly and accurately characterized the contents of the
19 January 21, 2016 order for internal investigation. Defendant Snohomish County affirmatively
20 alleges and admits an internal investigation was ordered on January 21, 2016 arising out of Deputy
21 Wallin's handling of an arrest of a driver after a pursuit which occurred on January 6, 2016. All
22 remaining or differing allegations are denied.

1 102. Answering paragraph 102 of the Third Amended Complaint, Defendant
2 Snohomish County denies Plaintiffs have fairly and accurately characterized the contents of the
3 January 21, 2016 internal investigation. Defendant is without information sufficient to form the
4 basis of a belief in the truth of the remaining allegations and therefore denies the same.

5 103. Answering paragraph 103 of the Third Amended Complaint, Defendant
6 Snohomish County denies Plaintiffs have fairly and accurately characterized the contents of the
7 January 21, 2016 internal investigation. Defendant is without information sufficient to form the
8 basis of a belief in the truth of the remaining allegations and therefore denies the same.

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10 104. Answering paragraph 104 of the Third Amended Complaint, on information and
11 belief, Defendant Snohomish County affirmatively alleges and admits Defendant Snohomish
12 County was concerned from an officer safety perspective about the tactics used in the January 6,
13 2016 incident. Defendant Snohomish County denies the remainder of the allegations.
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15 105. Answering paragraph 105 of the Third Amended Complaint, Defendant
16 Snohomish County denies Plaintiffs have fairly and accurately characterized the contents and
17 conclusions reached in the January 21, 2016 internal investigation. All remaining allegations are
18 denied.
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20 106. Answering paragraph 106 of the Third Amended Complaint, the allegations in
21 paragraph 106 of the Third Amended Complaint are directed at a defendant other than Snohomish
22 County. If an answer of Snohomish County is required regarding allegations against another
23 Defendant, Defendant Snohomish County affirmatively alleges and admits Deputy Wallin was
24 involved in an arrest of a suspect and Deputy Wallin deployed his K-9 during the arrest.
25
26

1 Defendant Snohomish County is without information sufficient to form the basis of a belief as to
2 the truth of the remainder of the allegations and therefore denies the allegations.

3 107. Answering paragraph 107 of The Third Amended Complaint, Defendant
4 Snohomish County affirmatively alleges and admits an investigation of the circumstances of the
5 June 20, 2017 arrest was undertaken to review compliance with applicable policy. All remaining
6 allegations are denied.
7

8 108. Answering paragraph 108 of The Third Amended Complaint, Defendant
9 Snohomish County denies Plaintiffs have fairly and accurately characterized the conclusions of
10 the June 20, 2017 internal investigation. Defendant Snohomish County affirmatively alleges and
11 admits Deputy Wallin received a letter of reprimand on December 19, 2018 for violation of the
12 Snohomish County Sheriff's Office Policy and Procedures #41.2.2 Knowing, Observing and
13 Obeying all Written Directives, Policies, and Procedures: a. 300.2.1 Use of Force to Effect an
14 Arrest, Detention, or to Conduct a Search." All remaining allegations are denied.
15

16 109. Answering paragraph 109 of the Third Amended Complaint, Defendant denies the
17 allegations.
18

19 110. Answering paragraph 110 of the Third Amended Complaint, Defendant
20 Snohomish County denies the allegations.
21

22 111. Answering paragraph 111 of the Third Amended Complaint, Defendant
23 Snohomish County denies the allegations.
24

25 112. Answering paragraph 112, of the Third Amended Complaint Defendant
26 Snohomish County denies the allegations.
27

1 113. Answering paragraph 113, of the Third Amended Complaint Defendant
2 Snohomish County denies the allegations.

3 114. Answering paragraph 114, of the Third Amended Complaint, Defendant
4 Snohomish County denies the allegations.

5 **V. FIRST CAUSE OF ACTION**

6 115. Answering paragraph 115 of The Third Amended Complaint, Defendant
7 Snohomish County incorporates its admissions and denials as set forth above.

8 116. Answering paragraph 116 of the Third Amended Complaint, to the extent
9 paragraph 116 consists of allegations pertaining to a defendant other than Snohomish County, no
10 response is required. This paragraph also consists of legal averments to which no response is
11 required. To the extent a response is required of Defendant Snohomish County regarding
12 allegations against a defendant other than Snohomish County, Defendant Snohomish County
13 denies the allegations, and to the extent this paragraph is directed at Defendant Snohomish
14 County, Defendant Snohomish County denies.

15 117. Answering paragraph 117 of The Third Amended Complaint, to the extent
16 paragraph 117 consists of allegations pertaining to a defendant other than Snohomish County, no
17 response is required. This paragraph also consists of legal averments to which no response is
18 required. To the extent a response is required of Defendant Snohomish County regarding
19 allegations against a defendant other than Snohomish County, Defendant Snohomish County
20 denies the allegations, and to the extent this paragraph is directed at Defendant Snohomish
21 County, Defendant Snohomish County denies.

22 118. Answering paragraph 118 of The Third Amended Complaint, Defendant

Snohomish County is without information sufficient to form a basis in a belief as to the truth of the allegations and therefore denies the allegations.

VI. SECOND CAUSE OF ACTION

119. Answering paragraph 119, of The Third Amended Complaint, Defendant Snohomish County incorporates its admissions and denials as set forth above.

120. Answering paragraph of The Third Amended Complaint, to the extent paragraph
120 consists of allegations pertaining to a defendant other than Snohomish County, no response
is required. This paragraph also consists of legal averments to which no response is required. To
the extent a response is required of Defendant Snohomish County regarding allegations against a
defendant other than Snohomish County, Defendant Snohomish County denies the allegations,
and to the extent this paragraph is directed at Defendant Snohomish County, Defendant
Snohomish County denies.

121. Answering paragraph 121 of The Third Amended Complaint, Defendant Snohomish County denies the allegations.

VII. THIRD CAUSE OF ACTION

122. Answering paragraph 122, of The Third Amended Complaint, Defendant Snohomish County incorporates its admissions and denials as set forth above.

123. Answering paragraph 123, of The Third Amended Complaint, Defendant Snohomish County denies

124. Answering paragraph 124, of The Third Amended Complaint, Defendant Snohomish County denies

1

VIII. RELIEF REQUESTED

2 Answering the request for relief, Defendant Snohomish County denies that the request for
3 relief should be granted.

4

IX. AFFIRMATIVE DEFENSES

5 Having fully answered Plaintiffs' Third Amended Complaint, Defendant asserts that
6 discovery and investigation may reveal that any one or more of the following affirmative defenses
7 should be available to it in this case. Defendant therefore asserts the following affirmative
8 defenses in order to preserve the right to assert them. If the facts warrant, Defendant may
9 withdraw any of these affirmative defenses as deemed appropriate. Further, Defendant reserves
10 the right to amend this Answer to assert additional defenses, cross claims, counterclaims, or other
11 defenses.

12 By way of further answer and affirmative defenses, Defendant Snohomish County
13 alleges:

14 1. Failure to State a Claim Upon Which Relief can be Granted. Plaintiff has failed to allege
15 facts of an official policy, custom, or practice, or of individual wrongdoing that would sustain
16 a § 1983 claim against a Snohomish County or its employees

17 2. Proximate Cause. Plaintiffs cannot show that the alleged negligent and/or intentional
18 acts or omissions or the alleged violations of the civil rights was a proximate cause of injury
19 and damage to the Plaintiffs.

20 3. Failure to Show Damages. Plaintiffs cannot show any monetary damages resulting from
21 Defendant Snohomish County's alleged acts or failure to act.

1 4. Comparative Fault. The damages, if any, were caused by decedent's own activities,
2 including the commission of a felony, which bar his right to recovery in this case, and/or the
3 law of comparative fault applies.

4 5. Good Faith. Defendant Snohomish County at all times acted in good faith in the
5 performance of duties and is therefore immune from suit for the matters charged in The Third
6 Amended Complaint.

7 6. Justification. Defendants' actions and conduct toward Plaintiff were justified.

8 7. Reasonable Exercise of Judgment. Defendant Snohomish County's actions manifested
9 a reasonable exercise of judgment and discretion by authorized public officials and were made
10 in the exercise of governmental authority entrusted to them by law. Such actions are neither
11 tortious nor actionable.

12 8. Qualified Immunity. Individual actors are immune from suit for the matters charged in
13 that the individuals are entitled to qualified immunity.

14 9. Failure to Mitigate. The claims are barred or should be reduced by any failure to
15 mitigate damages.

16 10. Failure to State a Claim of a Constitutional Violation. The Third Amended Complaint
17 fails, in whole or in part, to state a claim of a Constitutional violation upon which relief can be
18 granted.

19 22. Failure to State a Claim for Municipal Liability. The Third Amended Complaint fails,
20 in whole or in part, to state a claim for municipal liability under 42 U.S.C. §1983 against
21 Defendant Snohomish County upon which relief can be granted.

12. Reservation of Right to Assert Additional Affirmative Defenses. Defendant Snohomish county reserves the right to assert additional affirmative defenses after having the opportunity engage in discovery.

X. PRAYER FOR RELIEF

WHEREFORE, Defendant prays for the following relief:

1. Dismissal of Plaintiffs' Third Amended Complaint with prejudice and that Plaintiff take nothing thereby;

2. If necessary, determination of the percentage of total fault which is attributable to each and every entity that caused the damages and/or injuries, if any, as provided in RCW 4.22.070;

3. Award to Snohomish County its statutory costs and reasonable attorney fees to the extent recoverable at law or equity; and

4. Provide such other relief as the Court deems just and proper.

DATED this 6th day of September, 2019.

ADAM CORNELL
Snohomish County Prosecuting Attorney

s/Bridget E. Casey
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DECLARATION OF SERVICE

I, Teresa Kranz, hereby declare that I am an employee of the Civil Division of the Snohomish County Prosecuting Attorney, and that on the 6th day of September, 2019, I caused to be served this **Amended Answer of Defendant Snohomish County to The Third Amended Complaint** on the following party by the method indicated:

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Jacqueline Hackler
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- U.S. Mail
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Attorney for Arthur J. Wallin

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- Facsimile:
- E-mail
- U.S. Mail
- Hand Delivery
- Messenger Service

I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

SIGNED at Everett, Washington, this 6th day of September, 2019.

s/Teresa Kranz
Teresa Kranz, Legal Assistant